



LA/CERA

PROCESSING DISABILITY RETIREMENT APPLICATIONS AND APPEALS FILED BY INTERNAL AND INTERNAL-RELATED APPLICANTS

**Board of Retirement
December 6, 2023**

PROCESSING DISABILITY RETIREMENT APPLICATIONS AND APPEALS FILED BY INTERNAL AND INTERNAL-RELATED APPLICANTS

Authorizing Manager: Francis J. Boyd, Senior Staff Counsel

Effective Date: December 6, 2023

Last Updated: October 2023

Mandatory Review: October 2028 (Every Five Years)

Approval Level: Board of Retirement

I. Purpose

The Board of Retirement (Board) has a fiduciary duty to ensure all disability-retirement applications are kept confidential and receive a fair and impartial review. The Board also has a duty to ensure that all recommendations submitted for its decisions are based solely on the facts in evidence and are free of any bias.

The Board recognizes that staff takes great steps to ensure that all member information is kept confidential and that all cases are processed with the utmost professionalism. However, in situations where applying individuals are LACERA employees, Trustees, or family members of LACERA employees or Trustees, it is prudent to take additional precautionary steps to maintain confidentiality and eliminate any potential for bias or the appearance of impropriety. Therefore, the Board implements this policy for Internal and Internal-Related disability-retirement applicants.

II. Scope

This policy shall apply to all Internal Applicants and Internal-Related Applicants.

III. Legal Authority

The Board of Retirement has the plenary authority and fiduciary responsibility to administer the retirement system, and it holds executive, legislative, and quasi-judicial powers. It has the sole authority to determine eligibility for a disability retirement. In administering its duties, the Board has the authority to promulgate rules, regulations, and policies.¹

IV. Definitions

For the purpose of this Policy, the terms below have the following definitions:

¹ Cal. Const., art. XVI, § 17, subd. (a) and (b); Gov. Code Sec. 31725; *Preciado v. County of Ventura, et al.* (1982) 143 Cal.App.3d 783, 789.

IV. Definitions (Continued)

Legal Disability: Legal Disability is the Disability Section within the Legal Office that advises Disability Retirement Services (DRS) and the Board on disability-related matters.

Internal Applicants and Internal-Related Applicants: LACERA employees are identified under this policy as Internal Applicants. Current or former LACERA Trustees, family members of current or former LACERA Trustees, or family members of LACERA employees are identified as Internal-Related Applicants.

Family Members: “Family members” under this policy are defined as follows:

- 1) Family members of LACERA employees, not employed by DRS, Legal Disability, or the Disability Litigation Office (DLO), are defined as a spouse, ex-spouse, child, sibling, mother, or father.
- 2) Family members of LACERA Trustees or employees of DRS, Legal Disability, or the DLO are defined as a spouse, ex-spouse, child, sibling, mother, father, in-law, aunt, uncle, or cousin.

V. Policy Statement

A. Management of Applications and Appeals

1. Applications

All Internal and Internal-Related disability-retirement applications shall be processed by a third-party attorney under the direction of Legal Disability.

Applications filed by Legal Disability staff shall be processed by a third-party attorney under the direction of the Assistant Executive Officer overseeing the Member Operations Group.

2. Appeals

If the Board denies an Internal and/or Internal Related member’s application and the member appeals the denial, the Chief Counsel, DLO or their designee will refer the matter to a third-party attorney to represent LACERA under this policy.

3. Policy Procedures

These procedures instruct staff how to process applications and appeals of the Board of Retirement’s decisions filed by Internal or Internal-Related applicants.

V. Policy Statement (Continued)

3. Policy Procedures

a. Applications

- 1) All Internal or Internal-Related disability-retirement applications shall be processed in accordance with the applicable provisions of the County Employees Retirement Law of 1937, Board of Retirement Regulations, and Board of Retirement Policies, in effect at the time of receipt.
- 2) Legal Disability shall establish a pool of third-party attorneys tasked with all aspects of investigating applications filed by Internal or Internal-Related applicants. Legal Disability will oversee and monitor the work and billing statements of the third-party attorneys for compliance with LACERA's established procedural and policy norms as enunciated by the County Employees Retirement Law of 1937, Board of Retirement Regulations, Board of Retirement Procedures, and the contract between the third-party attorney and LACERA.
- 3) All Internal and Internal-Related applications shall be immediately routed to Legal Disability where the applications will be reviewed for completeness and secured pending processing. Legal Disability will send notice acknowledging receipt of the completed application and will inform the applicant that the application is being processed by a third-party attorney under *LACERA's Policy for Processing Disability-Retirement Applications and Appeals Filed by Internal and Internal-Related Applicants*. Legal Disability will reject and return incomplete applications with appropriate instructions on how to correct any defects.
- 4) All Internal or Internal-Related disability-retirement applications received by Legal Disability will be processed by an approved third-party attorney.
- 5) The third-party attorney hired to investigate the disability-retirement application will send its recommendation report to Legal Disability where it will be reviewed for accuracy and legal compliance. Legal Disability will return inaccurate or non-compliant reports to the third-party attorney with instructions to correct any defects.
- 6) Once the report has been approved by Legal Disability, it will prepare a Disability-Retirement Evaluation Summary which will be attached to the third-party attorney's recommendation report. Legal Disability will coordinate with the Board of Retirement's secretary to place the application and recommendation on the Board's next available monthly agenda.
- 7) If the Board grants the requested benefit, DRS will send the Board Action Notice to the applicant, applicant's counsel, LACERA's Benefits Division, Legal Disability, and LACERA's Human Resources Office.

V. Policy Statement (Continued)

3. Policy Procedures

b. Appeals

- 1) All Internal or Internal-Related disability-retirement appeals shall be processed in accordance with the applicable provisions of the County Employees Retirement Law of 1937, Board of Retirement Regulations, Board of Retirement Procedures, and DLO Policies and Procedures, in effect at the time of receipt.
- 2) The DLO shall establish and maintain a list of appropriate third-party attorneys tasked with all aspects of litigating appeals filed by Internal or Internal-Related applicants.
- 3) The Chief Counsel, DLO or their designee will oversee and monitor the work and billing statements of the third-party attorneys for compliance with LACERA's established procedural and policy norms as enunciated by the County Employees Retirement Law of 1937, Board of Retirement Regulations, Board of Retirement Procedures, DLO Policies and Procedures, and the contract between the third-party attorney and LACERA.

c. Administrative Duties Related to Appeals

If the Board denies the member's application, Legal Disability will perform the necessary administrative duties for the appeal process normally performed by DRS. These duties include:

- 1) Sending out the Board Action Notice with instructions to submit the appeal to Legal Disability.
- 2) Sending an appeal-acceptance notice if the appeal is timely or a rejection notice if the appeal is not timely.
- 3) Performing the administrative duties related to Rule 2 of LACERA's Procedures for Disability Retirement Hearings ([Hearing Procedures](#))—notification of referral to hearing referee.
- 4) Performing the administrative duties related to Rule 4 of the Hearing Procedures—petition for automatic reassignment.
- 5) Maintaining the administrative record.
- 6) Performing the administrative duties related to Rule 5(b) of the Hearing Procedures—amendment of application.

V. Policy Statement (Continued)

3. Policy Procedures

c. Administrative Duties Related to Appeals

- 7) Performing the administrative duties related to Rule 20 of the Hearing Procedures—issuance and preparation of subpoenas.
- 8) Performing the administrative duties related to Rule 28 of the Hearing Procedures—filing of proposed findings of fact and recommended decision and record on appeal.
- 9) Performing the administrative duties related to Rule 29(b) of the Hearing Procedures—schedule and give notice of Board oral argument date; prepare administrative record for the Board; and send out Board Action Notice.

VI. References

These references are intended to help explain this policy and are not an all-inclusive list of policies, procedures, laws, and requirements. The following information complements and supplements this document:

Related Policies:

- [Board of Retirement Regulations](#)

Related Procedures:

- [LACERA'S Procedures for Disability Retirement Hearings](#)
- [Hearing Procedures](#)

Related Forms/Templates:

- Not Applicable

Other Related Information:

- County Employees Retirement Law of 1937

VII. Version History

Policy Issue Date: *Pending Approval*

Policy Effective Date: *Pending Approval*

Policy Update/Review Summary:

- Previous named the *Policy for Processing LACERA Employee and their Immediate Family Disability Applications and Related Appeals*, also known as the *Mutual Assistance Policy*, Approved by the Board of Retirement on May 22, 2014

VIII. Policy Review/Approval

This policy shall be reviewed by the Operations Oversight Committee and the Board of Retirement (BOR) every 5 years or as needed and may be amended by the BOR at any time.